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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,229	04/12/2004	Toru Takeuchi	52433/760	4629
7590 05/18/2006			EXAMINER	
KENYON & KENYON One Broadway New York, NY 10004			CHAPMAN, JEANETTE E	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/823,229	Applicant(s) TAKEUCHI ET AL.	
	Examiner Chapman E. Jeanette	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-20 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/12/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

In Serial number 10/163,475 (now patent 6739099), an election of specie requirement was given or mailed on 5/15/03. The requirement was for an election of specie not a restriction requirement. In the election of species claim 1 was determined to be the generic claim. For an election of specie is the generic claim is found to be allowable the withdrawn claim may be reinstated if they depend upon the generic claim. This process was not followed. If new claims are added after the election , applicant must indicate which are readable upon the elected specie. In the amendment of paper number 6, filed 12/1/03, applicant cancelled original claims 1-17 which were subject to the election requirement. In paper number 6, applicant gave the correspondence of the new claims with the old, see pages 8-11, amendment filed 12/11/03. Applicant did not indicate which claims are readable upon the elected specie. The new claims 18-23 were allowed but were not the subject of an election of specie requirement. Therefore, the double patenting rejection is proper and deemed necessary in view of the claim language.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beauvoir (6059482) in view of Matsuo et al (4905436).

Beauvoir discloses a column beam join structure fabricated by

- connecting flanges 12 of upper and lower split tees 10 to a steel column 42 using bolts 50, figure 6 and
- by engaging the engaging and connecting webs 14 of the tees 10 of the ends of the flanges 52/53 of the steel beam 40 using bolts (column 6, lines 25-30) or
- by engaging and connecting the upper and lower flanges 52/53 of a steel beam 40 between the webs 14 of the upper and lower split tees using bolts
- the upper limit of the yield stress of 50ksi of the steel material used for either one or both web and flange of the slit tee 10 is defined not to be more than the lower limit of 36ksi thereof; see column 5, lines 1-7
- at a portion where both ends of the flange of the split tee are connected to the steel column using bolts
- both the upper and lower split tee has a shape wherein the cross section area of the flange is partially reduced; see figure 3

Beauvoir lacks the space keeping members are inserted between the flange of the split tee and the steel column and the flange of the split tee and the steel column are connected in the state of maintaining space. Matsuo et al discloses a steel column and

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a split tee 32 with a connecting flange 3 to a steel column 1. Matsuo et al discloses space keeping members 9 are inserted between the flange of the split tee 32 and the steel column 1. Matsuo also discloses connecting a pair of flanges of upper and lower tees to a steel column using bolts 4 and 5 and by molding concrete slab 14 to both the upper and lower flanges of the steel beam 2. See figures 15 and 16. Hence, in modifying Beauvoir in view of Matsuo, the yield stress of the steel material used for the flange of the split tee, to which the flange(upper) of the concrete slab has been molded and connected is higher than the upper limit of the yield stress of the steel material used for the flange of the other, lower split tee. Further, it would have been obvious to one of ordinary skill in the art to modify Beauvoir to include the space members 9 and concrete to reinforce and strengthen the beam to column structure as shown by Matsuo et al

DOUBLE PATENTING REJECTION

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 8-20 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6739099 in view of Matsuo.

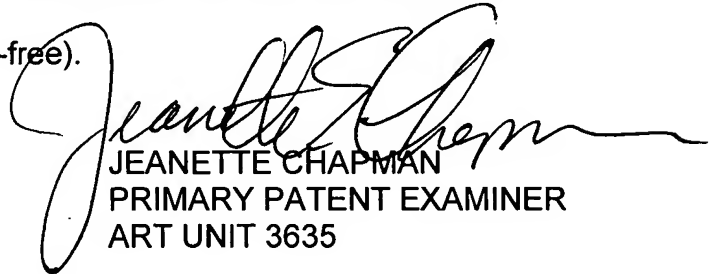
Patent '099 shows claims every thing except for the space keeping members shown by Matsuo. See above for what Matsuo discloses and the resultant function of the column beam structure. It would have been obvious to one of ordinary skill in the art to modify Patent '099 to include the space members 9 and concrete to reinforce and strengthen the beam to column structure as shown by Matsuo et al

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-Fri, 8:30-6:00, every other fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JEANETTE CHAPMAN
PRIMARY PATENT EXAMINER
ART UNIT 3635

jec